

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA

SHALIMAR BEACH,)	
)	
)	
Plaintiff,)	3:11-cv-00007-HDM-VPC
)	
vs.)	
)	MINUTES OF COURT
WAL-MART STORES, INC.,)	
)	
Defendant.)	November 1, 2012
	/	

PROCEEDINGS: JURY TRIAL - DAY THREE

PRESENT:

THE HONORABLE HOWARD D. McKIBBEN, SENIOR U.S. DISTRICT JUDGE

Deputy Clerk: Paris Rich Reporter: Kathryn French

Counsel for Plaintiff: Terry Friedman, Esq. and Julie McGrath Throop, Esq.

Counsel for Defendant: Stephen Kent, Esq.

At 9:22 a.m., the Court convenes.

On behalf of the Plaintiff, Terry Friedman, Esq. and Julie McGrath Throop, Esq. are present with the Plaintiff Shalimar Beach.

On behalf of the Defendant, Stephen Kent, Esq. is present with Angela Mayo, Manager of Wal-Mart Stores, Inc.

The jury enters the Courtroom.

STEPHEN DOW, M.D., called on behalf of the Defendant, is sworn, examined on direct by Mr. Kent, cross-examined by Mr. Friedman, and excused.

The Defendant rests.

The Plaintiff has no rebuttal evidence and rests.

At 10:55 a.m., the jury is admonished and excused for a brief recess.

Outside the presence of the jury, the Court addresses the revised jury instructions previously presented to counsel this date.

Counsel stipulate to the settlement of the jury instructions in open Court. The 27 jury instructions are numbered by counsel and the Court.

Mr. Kent, on behalf of the Defendant, offers the Defendant's jury instruction as to assumption of risk. **IT IS ORDERED, the Defendant's offered Jury Instruction No. 1 as to assumption of risk is REJECTED and filed with the Clerk.**

The Court recites further findings as to the Defendant's rejected Jury Instruction No. 1.

The Court and counsel further confer as to the Defendant's exhibits. **IT IS ORDERED, the parties shall further redact the Defendant's Exhibit 85 and 88 consistent with the Court's orders this date.**

At 11:13 a.m., the Court orders a brief recess.

At 11:15 a.m., the jury reenters the Courtroom. All parties are present.

The Court instructs the jury.

Ms. Throop presents closing argument on behalf of the Plaintiff.

At 12:23 p.m., the jury is admonished and excused for a brief recess.

At 12:34 p.m., the jury reenters the Courtroom. All parties are present.

Mr. Kent presents closing argument on behalf of the Defendant.

Ms. Throop presents rebuttal argument on behalf of the Plaintiff.

The Court recites pre-deliberation statements to the jury.

At 1:48 p.m., Court Security Officer Wick and Court Security Officer Beers are sworn by the clerk to take charge of the jury.

At 1:51 p.m., the jury retires to deliberate.

The Court instructs counsel to provide contact numbers and remain within 10 to 15 minutes of return to the courtroom upon a call from the Courtroom Clerk. If not contacted by the Court earlier, counsel is directed to return to the courtroom at 5:00 p.m. this date.

Counsel stipulate that they will receive no call from the Court if the jury requests to return to the Courtroom during deliberation and view the video exhibits.

At 1:53 p.m., the Court stands at recess subject to call of the jury.

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At 4:16 p.m., counsel return to the Courtroom after being notified by the Clerk that the jury has reached a verdict.

Julie McGrath Throop, Esq. is present on behalf of Plaintiff. Ms. Throop waives the Plaintiff's presence.

Stephen Kent, Esq. is present with Angela Mayo, Manager of Wal-Mart Stores, Inc.

At 4:18 p.m., the jury enters the Courtroom. Counsel stipulate to the presence of all eight members of the jury.

The jury foreperson confirms a verdict has been reached. The verdict is published by the Courtroom Clerk.

The Court confirms the verdict is unanimous. The Plaintiffs do not request polling of the jury.

IT IS ORDERED, Judgment is entered in favor of the Defendant and against the Plaintiff.

The Court thanks and excuses the jury.

The Court recites closing comments.

At 4:27 p.m., the Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Paris Rich
Deputy Clerk